

Adopted.

Senator Kleberg introduced a bill amending article 317 of chapter 3, title 9, of the Penal Code. Referred to Judiciary Committee No. 2.

Also, "An act to amend article 426 of the Penal Code." Referred to Judiciary Committee No. 2.

Senate bill No. 24, "An act authorizing the Commissioner of the General Land Office to employ additional clerks, and fixing their salaries," was taken up, read second time with committee report, and, on motion of Senator Terrell, was postponed until Wednesday next, and made the special order after the morning call.

Senator Gibbs presented a petition of the Merchants' Exchange of Dallas, asking that another section be added to article 152 of the Revised Civil Statutes, relating to attachments. Referred to Judiciary Committee No. 1.

On motion of Senator Pfeiffer, the Senate took a recess of thirty minutes.

Recess expired.

Senate called to order, Lieutenant-Governor Storey in the chair.

Roll called. Quorum present.

Senator Chesley offered the following resolution:

*Resolved*, That a committee of three be appointed upon the part of the Senate to act with a committee upon the part of the House, to make all necessary arrangements for the inauguration.

Adopted.

On motion of Senator Matlock, Senator Gooch was excused for one week, on account of important business.

Senator Buchanan introduced the following bills:

"An act to amend article 1083 of the Code of Criminal Procedure of the State of Texas." Referred to Judiciary Committee No. 2.

"An act to amend article 1134 of the Revised Statutes of the State of Texas, and to add article 1134a, requiring judges now in office to give official bond." Referred to Judiciary Committee No. 1.

On motion of Senator Kleberg, the Senate adjourned until 10 o'clock Monday morning.

## SIXTH DAY.

SENATE CHAMBER,  
AUSTIN, January 15, 1883. }

The Senate met pursuant to adjournment. Lieutenant-Governor Storey in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Johnston of Shelby, the reading of the journal of Saturday was dispensed with.

On motion of Senator Johnston of Shelby, Senators Chesley and Stratton were added to the Committee on Constitutional Amendments, and Senator Chesley to the Committee on Education.

On motion of Senator Johnston of Shelby, Senator Pope was excused until Wednesday next, in consequence of necessary absence at home.

Senator Terrell, chairman of Judiciary Committee No. 1, submitted the following reports:

COMMITTEE ROOM,  
AUSTIN, January 15, 1883.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 36, entitled "An act to amend article 2863, chapter 4, of title 50, of the Revised Civil Statutes," have considered the same, and a majority of the committee instruct me to report the bill back, and recommend that it do not pass.

The object of the bill is to so amend the law as to permit either the husband or wife to testify in divorce suits, as other witnesses.

The laws of divorce should be regarded as of the utmost importance, affecting the dearest interests of society. In England a divorce from the marriage bond has only been granted since the days of Elizabeth, by special act of Parliament. In South Carolina no divorce was ever granted for any cause, from its first settlement until 1867, and it is believed the laws of that State still prohibit divorces. In New York, up to 1871, no absolute divorce from the marriage bond was ever permitted, except for one act, of which the wife above all others would have least personal knowledge, and it is believed the same law still prevails.

For more than twenty-five years the laws of Texas have not permitted either the husband or wife to testify to communications made by the one to the other while married, or to reveal the secrets obtained during the marriage union, in a criminal prosecution against either, even after a divorce, unless such revelation would tend to the defense of the one charged with crime.

They are permitted, when prosecuted for crime, to testify for each other, never against each other, except when charged with crime committed the one against the other.

We do not believe that modern innovations on the law of divorce in many of the States tend to the improvement of the marriage relation, its permanence, or the good of society. Of the three characters of government to which man is subject, viz: the State, the church and the family relation, the last is the one on the permanence of which the security and prosperity of the other two must depend. In proportion as the conjugal tie is weakened, in the same proportion must society suffer in all its other relations, and we believe that any law, which permits the husband and wife to sever, in a moment of passion or prejudice, the marriage relation, by his or her oath, will be fraught with pernicious results. Its natural effect would be to destroy that unlimited confidence without which there is no happiness in married life. What man would make his wife the custodian of all his secrets, if the rules of evidence can unseal her lips? For if the husband or wife may testify, the one against the other, to destroy so holy a relation as that of marriage, there would remain no reason why their evidence should not be taken against each other when the rights of others are involved.

The tendency to contract marriage too hastily would be increased by such legislation. A yoke, the duration of which depended on the unaided testimony of the one who bears it, would be lightly worn when it could so easily be shaken off, and instead of people marrying with that deliberation and judgment which a partnership for life should inspire, the romantic unions of the period would increase.

It may be said that personal violence, inflicted by the husband on the wife, often occurs when there is no witness present. In such a case the courts are always ready to punish, and the wife is a competent witness. The very interests of society, which should restrain her from dissolving, by her own testimony, the marriage contract, and thus making it a rope of sand, requires that her person shall be protected from unlawful violence by her husband, even by making her a witness. But here it is believed the permission for her to testify should stop. The penal laws are usually adequate to her protection, and not only society, but the children of the marriage have an interest in not having the marriage union destroyed by the testimony of the parents on the occurrence of every family broil.

TERRELL, Chairman.

The following minority report from the said committee and on the same bill was submitted:

COMMITTEE ROOM,  
AUSTIN, January 15, 1883.

To Hon. L. J. Storey, President of the Senate.

The undersigned members of your Judiciary Committee No. 1, respectfully dissent from the views of the majority of the committee in reporting adversely upon Senate bill No. 36, entitled "An act to amend article 2863 of the Revised Statutes," and recommend that the bill as amended do pass.

DAVIS,  
STRATTON,  
SHANNON.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, January 15, 1883.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred a memorial of the Merchants Exchange, of the city of Dallas, asking that article 152, Revised Statutes be so amended as to authorize the issuance of an attachment to seize the property of a citizen, after oath made by the creditor "that the defendant is justly indebted to the plaintiff, and the amount of the demand, that the same is past due and that the defendant, after having been served with demand to pay, has failed to do so," have considered the same and instruct me to report that they cannot recommend any such change in the law. The attachment of property for the collection of debt, though sometimes necessary, is a harsh remedy, and is always strictly con-

strued. The policy of our laws has been to allow it only against those who cannot be reached in person by the process of the court, who are about to elude its jurisdiction or remove their property beyond its control, or against those who have contracted debts by false pretenses or have perpetrated, or are about to commit, some fraud on a creditor.

To permit a resort to so harsh a remedy against a citizen, who though honest and solvent, is, by misfortune, rendered unable to meet his paper with promptness, would often result in ruin to the debtor, through the hasty seizure and sacrifice of his property, without any corresponding benefit to the creditor.

Such a law would turn over to immediate administration by the courts, the property of every man who failed to pay his debts promptly; would render useless every other provision of the Statute relating to causes for attachment.

TERRELL, Chairman.

Bill read first time.

Senator Matlock, chairman of the Committee on Public Lands, submitted the following reports:

COMMITTEE ROOM,  
AUSTIN, January 15, 1883.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Lands, to whom was referred Senate bill No. 22, an act to be entitled "An act to suspend the sale of public school, University and asylum lands, and all vacant and unappropriated lands of the State," have had the same under consideration, and a majority of the committee instruct me to report back the accompanying substitute, and recommend that it do pass.

MATLOCK, Chairman.

Bill read first time.

COMMITTEE ROOM,  
AUSTIN, January 15, 1883.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Lands, to whom was referred Senate bill No. 19, entitled "An act to repeal an act granting to persons who have been permanently disabled by wounds received while in the service of this State, or of the Confederate States, a land certificate for 1280 acres of land," have had the same under consideration, and a majority of the committee instruct me to report the same back, with the recommendation that it do pass, for the reason that, in the opinion of the committee, there are now more certificates issued than there is public lands to locate them on.

MATLOCK, Chairman.

Bill read first time.

Senator Harris, Chairman of the Committee on Judicial Districts, submitted the following report:

COMMITTEE ROOM,  
AUSTIN, January 14, 1883.

Hon. L. J. Storey, President of the Senate:

Your Committee on Judicial Districts, to whom was referred Senate resolution No. 11, "A resolution to require the Committee on Judicial Districts to ascertain and report the number of days of actual session of district courts for 1881 and 1882," have had the same under consideration and instruct me to report as follows: That said resolution be so amended as to provide that the committee ascertain the number of cases, both civil and criminal, now pending in the several district courts of the State, and, as so amended, that it be adopted.

Your committee further recommends that three hundred copies of the accompanying form of a circular letter, marked "A," to be addressed to the district clerks of the several counties of the State, be printed for the use of this committee, to expedite the work contemplated by said resolution.

HARRIS, Chairman.

Bill read first time, with amendments, and accompanying document:

To the District Clerk of ——— county:

In accordance with a resolution of the Senate, I request you to furnish me the following information:

1. How many days was the district court of your county in actual session during the year 1881?
  2. How many days was said court in actual session during the year 1882?
  3. How many civil cases are now pending in said court?
  4. How many criminal cases are now pending in said court?
- Please furnish the information at once.

A. J. HARRIS,  
Chairman of Senate Committee on Judicial Districts.

In the journals of Saturday the names of Senators Chesley, Terrell, and Kleberg, appointed on the special commit-

tee to act with a like committee on the part of the House to make all necessary arrangements for the inauguration and installation of the Governor and Lieutenant-Governor elect of the State of Texas, were omitted, and are hereby inserted to supply said omission.

Senator Chesley, chairman of said committee, submitted the following report, which was read and adopted:

COMMITTEE ROOM,  
AUSTIN, January 15, 1883.

Hon. L. J. Storey, President of the Senate, and Hon. C. R. Gibson, Speaker of the House of Representatives:

Your committee appointed to act with a like committee upon the part of the House of Representatives, to make all necessary arrangements for the inauguration and installation of the Governor and Lieutenant-Governor elect of the State of Texas, beg leave to submit the following report: After conference with House committee, it was agreed that the Senate assemble in joint session with the House of Representatives, in the hall of the House, at 12 o'clock m., on Tuesday, January 16, 1883, to witness the inauguration and installation of Governor and Lieutenant-Governor elect, and that Judge A. S. Walker administer the oath of office to those officials; and that an invitation be extended to the members of the Supreme Court, Court of Appeals, and Commissioners of Appeals, and the public generally to be present at the inauguration.

CHESLEY,  
TERRELL,  
KLEBERG,  
Senate Committee.  
WILSON,  
ACKER,  
FOSTER of Grayson,  
House Committee.

Senator Shannon introduced the following bill, to be entitled "An act to restore to, and confer upon, the county court of Parker county, the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general statutes of the State, and to conform the jurisdiction of the district court of said county to such change." Read by caption and referred to Judiciary Committee No. 1.

Also the following bill, to be entitled "An act making an appropriation for the mileage and per diem pay of members, and per diem pay of officers and employees of the regular session of the Eighteenth Legislature of the State of Texas." Read by caption and referred to the Committee on Contingent Expenses.

Senator Terrell introduced the following bills:

A bill to be entitled "An act to prescribe a mode for designating a homestead." Read by caption and referred to Judiciary Committee No. 1.

A bill to be entitled "An act to prevent tax collectors from collecting taxes, unless they have a bond duly approved." Read by caption and referred to Committee on Finance.

Senator King introduced a bill to be entitled "An act to authorize courts to dismiss original writs of attachment, where the allegations in the affidavits therefor are not proven on the trial." Read by caption and referred to Judiciary Committee No. 1.

Senator Davis introduced the following bills:

A bill to be entitled "An act making provision for the sale, settlement and improvement of the public school lands." Read by caption and referred to Committee on Public Lands.

By request, a bill to be entitled "An act to amend articles 3707 and 3733 of the Revised Statutes." Read by caption and referred to Committee on Education.

A bill to be entitled "An act confirming patents and surveys by virtue of headright and bounty warrants issued under special laws, enacted after March 31, 1870, and prior to April 17, 1876." Read by caption and referred to Committee on Public Lands.

Senator Chesley introduced a bill to amend article 1215, 1216 and 1217, and to repeal article 1220, chapter 6, title

29, of the Revised Statutes, relating to process and returns. Referred to Judiciary Committee No. 1.

Senator Kleberg introduced a bill amendatory of an act entitled "An act to extend the time within which all persons whose lands have been sold for taxes and bought in by the State, may redeem the same," approved February 5, 1881. Referred to Judiciary Committee No. 1.

Senator Traylor introduced a bill to be entitled "An act to amend articles 1700, 1702, 1705, 1709 and 1710 of chapter 5, title 34, of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed February 21, 1879." Referred to Committee on Privileges and Elections.

Senator Jones introduced a bill authorizing the settling of cases for trial or disposition in the district courts. Referred to Judiciary Committee No. 2.

Senator Matlock introduced a bill to be entitled "An act to repeal the law granting land certificates to veterans." Referred to Committee on Public Lands and Land Claims.

Senator Peacock introduced a bill entitled "An act to amend section 1, article 3602, chapter 10, title 71, of the Revised Civil Statutes, as amended by an act approved May 4, A. D. 1882." Referred to Judiciary Committee No. 1.

Senator Martin introduced a bill to amend article 2257, chapter 4, title 38, Revised Statutes of Texas." Referred to Judiciary Committee No. 1.

Senator Gibbs introduced a bill requiring an opening in every five miles of fencing. Referred to Committee on Roads, Bridges and Ferries.

Also, a bill amending articles 3176 and 3179, Revised Statutes. Referred to Judiciary Committee No. 1.

Also, a bill amending section 2725, Revised Statutes." Referred to Committee on Contingent Expenses.

Senator Davis introduced a bill entitled "An act to repeal an act entitled 'an act granting to persons who have been permanently disabled by wounds received while in the service of this State, or of the Confederate States, a land certificate for 1280 acres of land.'" Referred to Committee on Public Lands.

Senator Cooper, by request, introduced a bill entitled "An act to amend chapter 10, title 71, of the Revised Civil Statutes, by adding article 3604a." Referred to Judiciary Committee No. 2.

Also, a bill entitled "An act to amend article 1215, and to repeal article 1216, of the Revised Civil Statutes." Referred to Judiciary Committee No. 1.

Senator Houston introduced a bill entitled "An act to amend article 478 of the Revised Statutes, and to enact articles 478a, 478b, 478c, 478d, and 478e of the Revised Statutes." Referred to Judiciary Committee No. 1.

Senator Martin introduced a joint resolution to amend section 9, article 8, of the Constitution of the State of Texas. Referred to Committee on Constitutional Amendments.

Senator Farrar introduced a bill to extend the time for redeeming lands sold by the State for taxes, for one year, from April 20, 1882. Referred to Judiciary Committee No. 1.

Senator Terrell introduced a bill to regulate the practice of dentistry in the State of Texas. Referred to Committee on Public Health.

Senator Shannon introduced the following resolution:

*Be it resolved by the Senate of the State of Texas, That there shall be appointed, by the President of the Senate, four committee clerks, one for each of the following committees, upon the recommendation of the chairman:*

Education.  
Internal Improvements.  
Penitentiaries.

#### Public Lands.

The clerk for Committee on Education shall perform duties for the following committees:

Constitutional Amendments, and Education.

The clerk for Internal Improvements, shall perform duties for said committee, and State Affairs and Contingent Expenses.

The clerk for the Committee on Penitentiaries shall perform clerk duty for said committee, and Committees on Commerce and Manufactures, and Public Buildings and Grounds, and Treasurer's and Comptroller's offices.

The clerk for Committee on Public Lands shall perform clerk duties for said committee, and Committees on Federal Relations and Stock and Stockraising.

Senator Johnson of Collin moved to postpone the resolution subject to call. Lost.

Senator Johnston of Shelby moved to amend by inserting before the word "clerks" the word "additional." Accepted, and the resolution adopted by the following vote:

#### YEAS.—17.

Chesley,	Gibbs,	Patton,
Collins,	Johnston of Shelby,	Peacock,
Davis,	Jones,	Shannon,
Evans,	King,	Stratton,
Fleming,	Kleberg,	Terrell.
Getzendaner,	Matlock,	

#### NAYS.—11.

Buchanan,	Harris,	Perry,
Cooper,	Houston,	Randolph,
Farrar,	Johnson of Collin,	Traylor.
Fowler,	Martin,	

A message was received from the House informing the Senate that the House has adopted the report of the joint committee of the Senate and House appointed to perfect arrangements for the inauguration of the Governor and Lieutenant-Governor elect.

Senator Johnston of Shelby, introduced a bill entitled "An act making an appropriation to defray the contingent expenses of the Eighteenth Legislature, convened January 9, 1883." Referred to Committee on Finance.

On motion of Senator Kleberg, Senator Pfeuffer was excused for the day.

Senator Houston introduced a bill entitled "An act to prevent certain county officers, their deputies and employes, from purchasing property at tax sales." Referred to Judiciary Committee No. 2.

Senator Shannon, by request, introduced a bill entitled "An act to amend articles 1299 and 1316, and to repeal article 1300 of the Revised Statutes of the State of Texas." Referred to Judiciary Committee No. 1.

Senator Houston introduced the following bills:

"An act to amend article 247 of the Penal Code." Referred to Judiciary Committee No. 2.

An act entitled "An act to amend article 240 of the Penal Code." Referred to Judiciary Committee No. 2.

"An act to amend article 720 of the Code of Criminal Procedure." Referred to Judiciary Committee No. 2.

Senator Martin introduced a bill entitled "An act to amend articles 4797, 4814, and 4816 of the Revised Statutes of Texas." Referred to Judiciary Committee No. 1.

Senator Chesley moved to take up the report of the committee on inauguration. Adopted, and report taken up and read, and on motion of Senator Chesley adopted.

Senator Chesley moved to suspend rules to take up, out of its regular order, Senate bill No. 22, "An act entitled an act to suspend the sale of the public school, university and asylum land and all vacant and unappropriated lands of the State." Adopted, and bill taken up and read first time with substitute.

Senator Chesley moved to suspend rules to place bill on its second reading. Motion to suspend rules lost by the following vote, it requiring a four-fifth vote to suspend:

## YEAS—21.

Buchanan,	Getzendaner,	Matlock,
Chesley,	Gibbs,	Patton,
Collins,	Harris,	Peacock,
Cooper,	Houston,	Pfeuffer,
Evans,	Johnston of Shelby,	Randolph,
Farrar,	Kleberg,	Terrell,
Fowler,	Martin,	Traylor.

## NAYS—8.

Davis,	Jones,	Shannon,
Fleming,	King,	Stratton.
Johnson of Collin,	Perry,	

The President laid before the Senate, Senate bill No. 4, "An act to amend title 9, chapter 3 of the Penal Code of the State of Texas, by adding thereto another article, to be entitled article 317a." Bill taken up and read second time.

Senator Houston offered the following amendment: Strike out "one hundred" and insert "twenty-five." Adopted.

Senator Harris offered to amend by adding "insulting" after "abusive" in the bill. Adopted.

Senator Fowler offered the following amendment: "Amend by fixing the punishment at a fine not to exceed twenty-five dollars." Lost, and bill ordered engrossed.

Senate bill No. 6, "An act to repeal section 4 of article 730 Code of Criminal Procedure, title 8, chapter 7," was taken up and read second time with committee adverse report.

On motion of Senator Matlock the adverse report was adopted and bill tabled.

Senate bill No. 7, "An act to amend articles 245 and 247 of the Revised Statutes," was taken up and read second time, with report of committee. Committee amendment adopted, and bill ordered engrossed.

Senate bill No. 9, "An act to amend articles 730 and 731 of the Code of Criminal Procedure," was taken up and read second time, with committee amendments.

First committee amendment adopted.

Second committee amendment adopted by the following vote:

## YEAS—17.

Buchanan,	Getzendaner,	Peacock,
Chesley,	Gibbs,	Perry,
Collins,	Johnston of Shelby,	Pfeuffer,
Evans,	Martin,	Terrell,
Farrar,	Matlock,	Traylor.
Fowler,	Patton,	

## NAYS—12.

Cooper,	Houston,	Kleberg,
Davis,	Johnson of Collin,	Randolph,
Fleming,	Jones,	Shannon,
Harris,	King,	Stratton.

During the argument of Senator Terrell upon the second committee amendment, Senator Davis raised the point of order that the Senator from Travis was not addressing himself to the amendment. Point of order overruled.

Senator Harris offered the following amendment: Amend by adding the following: "Provided, that the defendant shall not be prohibited from testifying in rebuttal to any evidence introduced by the State, or any additional facts developed by the testimony of his own witness." The amendment was lost by the following vote:

## YEAS—12.

Cooper,	Houston,	Randolph,
Davis,	Jones,	Shannon,
Fleming,	King,	Stratton,
Harris,	Kleberg,	Traylor.

## NAYS—17.

Buchanan,	Getzendaner,	Patton,
Chesley,	Gibbs,	Peacock,
Collins,	Johnson of Collin,	Perry,
Evans,	Johnston of Shelby,	Pfeuffer,
Farrar,	Martin,	Terrell,
Fowler,	Matlock,	

Senator Randolph offered the following amendment: Amend by striking out the amendment offered by the committee and insert: "Provided, that it shall be left to the discretion of the judge presiding at the term of the trial, taking in consideration the nature of the cause, to determine at what time the defendant shall be allowed to make his statement." Lost.

Senator Chesley offered the following amendment: "Amend by striking out so much of the bill as is an amendment to article 731, together with all amendments thereto." Amendment, lost and Senate refused to engross by the following vote:

## YEAS—7.

Gibbs	Matlock,	Randolph,
Johnson of Collin,	Patton,	Mr. President.
Martin,		

## NAYS—22.

Buchanan,	Fowler	Kleberg,
Chesley,	Getzendaner,	Peacock,
Collins,	Harris,	Perry,
Cooper,	Houston,	Pfeuffer,
Davis,	Johnston of Shelby,	Shannon,
Evans,	Jones,	Terrell,
Farrar,	King,	Traylor.
Fleming,		

Senator Chesley moved to adjourn until to-morrow morning at 10 o'clock, but withdrew the motion temporarily, at the request of Senator Davis.

Senator Davis entered a motion to reconsider the vote by which the Senate refused to engross Senate bill No. 9.

Senator Harris moved to suspend the rules to take up Senate resolution No. 11 out of its regular order. Motion lost and Senator Chesley renewed his motion to adjourn till to-morrow morning at 10 o'clock. Adopted and Senate adjourned.

## SEVENTH DAY.

SENATE CHAMBER,  
AUSTIN, TEXAS, January 16, 1883. }

The Senate met pursuant to adjournment.

Senator Houston, President pro tem., in the chair.

Roll called. Quorum present.

Prayer by the Chaplain.

On motion of Senator Traylor, the reading of journal of yesterday was dispensed with.

Senator Evans, chairman of Committee on Public Printing, submitted the following report:

COMMITTEE ROOM,  
AUSTIN, January 16, 1883.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Printing have had under consideration Senate Bill No. 58, "An act to amend article 4000 of the Revised Civil Statutes on printing," and a majority of said committee have instructed me to report it back with the recommendation that it do pass.

EVANS, Chairman.

Bill read first time.

Senator Martin, chairman of Committee on Engrossed Bills, submitted the following report:

C MMITTEE ROOM,  
AUSTIN, January 16th, 1883.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills, to whom was referred Senate bills Nos. 4 and 7, have examined the same and instruct me to report that they find the said bills correctly engrossed.

MARTIN, Chairman.

Bill read first time.

Senator Collins, chairman of Committee on Stock and Stockraising, submitted the following report: